

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

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|-------------------------------|---|---------------------------------|
| Ted Wayne Saunders, #1054985, |) | Civil Action No.: 1:16-1149-BHH |
| |) | |
| Petitioner, |) | |
| |) | |
| v. |) | <u>OPINION AND ORDER</u> |
| |) | |
| U.S. Marshal Service, |) | |
| |) | |
| Respondent. |) | |
| _____ |) | |

Petitioner Ted Wayne Saunders (“Petitioner”), a federal pretrial detainee proceeding *pro se*, filed this habeas relief action pursuant to 28 U.S.C. § 2241. (ECF No. 1.) The matter is before the Court for review of the Report and Recommendation (“Report”) of United States Magistrate Judge Shiva Hodges, made in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Civil Rule 73.02(B)(2)(c) D.S.C.

On April 29, 2016, Magistrate Judge Hodges issued a Report recommending that the Court dismiss the petition without prejudice. (ECF No. 8.) The Magistrate Judge advised Plaintiff of the procedures and requirements for filing objections to the Report and the serious consequences if he failed to do so. (ECF No. 8 at 5.) On May 24, 2016, the envelope that was mailed to the Charleston County Detention Center containing Petitioner’s copy of the No Service Order and Report (ECF Nos. 7, 8) was returned to the Clerk of Court, marked “Return to Sender, Attempted - Not Known, Unable to Forward.” (ECF No. 11.) The Order that was also returned in the mail advised Petitioner of his responsibility to notify the Court in writing if his address changed and that his case could be dismissed for failing to comply with the Court’s Order. (ECF No. 7.)

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the Court.

See Mathews v. Weber, 423 U.S. 261 (1976). The Court is charged with making a *de novo* determination of any portion of the Report of the Magistrate Judge to which a specific objection is made. The Court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. *See* 28 U.S.C. § 636(b). The Court reviews the Report only for clear error in the absence of an objection. *See Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that “in the absence of a timely filed objection, a district court need not conduct a *de novo* review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.”) (citation omitted).

After a careful review of the record, the applicable law, and the Report of the Magistrate Judge, the Court finds no clear error. Accordingly, the Court adopts and incorporates the Report (ECF No. 8) by reference into this order. It is therefore ORDERED that this action is DISMISSED without prejudice and without requiring respondent to file a return.

IT IS SO ORDERED.

/s/Bruce Howe Hendricks
United States District Judge

July 29, 2016
Greenville South Carolina